

## **CHAPTER 3. BIENNIAL REVIEW REQUIREMENTS**

### **3-1 General**

- A. OMB Circular A-25 requires a biennial review of user fees. The Department's annual call for budget estimates and legislative proposals, for each fiscal year provides the opportunity for program managers to propose new user fees or to make changes to existing user fees.
- B. Program managers will review existing fee arrangements and new fee proposals in light of the guidance in this Handbook and develop and submit justifications for changes or new fees. All proposals will be given full consideration during Departmental budget and legislative deliberations prior to submission to OMB.
- C. Program managers should capture data for the computation of user fees from existing management information systems. The review procedures for user fees are not intended to represent a separate and distinct system that is to be maintained by program offices. In those cases where data are not currently available, program managers will be responsible for the development of reasonable, reliable and supportive estimates consistent with the provisions of OMB Circular A-25.

### **3-2 Review Procedures**

The procedure described below will be followed in conducting the review process for user fees.

- A. Issue Instructions for Biennial Review. As part of HUD's annual budget formulation process, the Office of the ACFO-Budget will include instructions for conducting the review of user fees that will identify supporting documentation required on new proposals and changes to existing user fees.
- B. Identify Services Subject to User Fees. Program managers will validate and update the schedule of user fees for services within their program areas.
- C. Determination of Costs and Revenues. Program managers will determine the full costs and receipts for each service subject to user charges for the last complete fiscal year. Accepted cost accounting principles should be applied in the computation or estimation of those costs and collections based on data available from existing Departmental accounting records and management information systems. New cost accounting systems will not be established solely for this purpose. The cost computation shall cover the direct and indirect costs to the Government for carrying out the activity, including but not limited to:
  - 1. salaries, employee leave, travel expenses, rent, cost of fee collection, postage, maintenance, operation and depreciation of buildings and equipment, and

personnel costs other than direct salaries (e.g., retirement and employee insurance);

2. a proportionate share of the Department's management and supervisory costs; and
  3. the costs of enforcement, research, establishing standards, and regulations, to the extent they are determined by the program manager to be properly chargeable to the activity.
- D. **Determination of Fees to Recover Costs.** Based on comparisons of full costs and fee revenues for each service activity, each program manager should estimate fee levels necessary to recover full costs and propose fees in accordance with policies and procedures. The full cost of providing the service shall be reviewed as part of the budget formulation process every year and fees adjusted to provide full cost recovery. In setting new fees, program managers may propose exceptions to the general policy under such conditions as illustrated below:
1. The incremental cost of collecting the fees would be an unduly large part of the receipts from the activity;
  2. The identification of ultimate beneficiary is obscure and the service can be primarily considered as benefitting the general public;
  3. The recipient is engaged in a nonprofit activity designed for the public safety, health, or welfare; and
  4. Payment of the full fee by a state, local government, or program participant or beneficiary would not be in the interest of the program or consistent with existing business practices or charges.
- E. **Submission of Fee Proposals.** Each A/S will present proposed fee structures for their programs in the annual budget submission. The A/S and organization heads will ensure user fee proposals take into consideration all relevant factors including full costs, public policy, existing program goals and objectives, and legislative constraints. The cumulative assessment of the impact of all costs and user fees for the fiscal year will be taken into consideration when determining the level of appropriation requested. All required documentation, including justification for setting fees at less than full costs, will be included in the budget submission for each program area. Program management should clear all proposals for new fees with General Counsel to ensure consistency with existing law.
- F. **Departmental Review/Approval Process.** The Office of the ACFO-Budget will coordinate the inclusion of user fee proposals as part of the budget submission material to be given full consideration during the Departmental budget and

legislative deliberations. Once approved, budget and program managers will take appropriate actions necessary to implement user fee charges decisions.

- G. **Maintaining a User Fee Schedule.** Each A/S is responsible for maintaining a current User Fee Schedule, along with records including documentation of **biennial** user fee reviews and the basis for determining whether a user fee is to be implemented and the basis for the amount. The Office of the ACFO-Budget will provide a summary report of User Fees, User Fee reviews, disposition of User Fees, and changes made to User Fees for inclusion in the Agency Financial Report, as required by OMB Circular A-25, 8.e and 8.g.

### **3-3 ADDITIONAL GUIDANCE**

- A. **Disposition of Receipts.** In general, fees collected are credited to miscellaneous receipts of the Treasury. However, exceptions may be made where:
1. It is intended that a program or a specifically identifiable part of a program be operated on a substantially self-sustaining basis from receipts for services performed or from the sale of products or use of Government-owned resources or property; and
  2. The receipts are in payment of the cost of authorized special benefits for which the demand is irregular or unpredictable such as inspections performed upon request outside the regular duty hours.
- B. **Review Documentation and Budget Submission:** Documentation supporting the cost computations and decisions during the biennial review process should be maintained by POHs including the justification for setting fees at less than full costs.
- C. **Changes in Existing Law:** In cases where collection of fees and charges for services or property in accordance with this Handbook is limited or restricted by provisions of existing law, the Department will submit appropriate remedial legislative proposals to OMB, as part of the regular budget cycle. Program offices should work with their budget office and/or General Deputy Assistant Secretary to initiate a legislative proposal.
- D. **Calculation of General and Administrative Expense Rate (Overhead).** As part of the calculation of costs for providing the services covered by this Handbook, program offices are to include an allocation of program overhead. In addition, Departmental overhead will be included through estimation of an overhead cost rate for the Department. The Departmental overhead cost rate will be based on total salary and expense obligations incurred for each major organization as reported on the Distribution of Obligations by Budget Activity in the Congressional Justification. Total obligations reported for HUD's major programs (the Office of Housing, GNMA, CPD, PIH, FHEO, OHHLHC, and any other operating

organizations with direct programmatic responsibilities) will be classified as the overhead allocation base. The obligations reported for the remaining offices, such as General Counsel, OCHCO, OCPO, OCIO, OCFO, and staff support, etc., will be classified as the overhead pool. The overhead cost rate will be calculated by dividing the overhead pool by the allocation base.

- E. Preparation of Cost Proposals for New User Fees. In the establishment of new Federal activities which would provide special benefits, affected program offices are to apply the policies and criteria set forth in this Handbook for all user fees.
- F. Determination of “No User Fee.” In those cases where the identification of the ultimate beneficiary is obscure and the service can be primarily considered as benefitting broadly the general public, no user charge should be made. Program managers shall prepare documentation which supports the determination and is approved by the Assistant Secretary.